

EEOICPA BULLETIN NO.03-03

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Subject: Issues Concerning Cases Sent to NIOSH

Background: Section 20 C.F.R 30.115(a) of the interim final regulations currently provides that the Office of Workers Compensation Programs (OWCP) will forward eligible claimant application packages to HHS for dose reconstruction. This Bulletin provides additional details related to issues with the NIOSH Referral Summaries sent to NIOSH. For many issues this information reiterates or expands on information supplied in Bulletin 02-03, which was subsequently incorporated into Section 7 of Chapter 2-600 of the Procedure Manual. The last issue listed below alters previous guidance as a result of NIOSH experience gained during the dose reconstruction process.

The items addressed below were discussed in a telephone conference call between DOL National Office staff and NIOSH staff on September 10, 2002, and in subsequent follow-up discussions.

The primary corrective actions for most of these issues involve better quality control during the compilation of the NIOSH Referral Summary, including review by a supervisor or Senior CE before sending the form to NIOSH (required in the Procedure Manual, Chapter 2-600, Section 7(e)).

Reference: Interim final regulation 30 CFR 30.115(a); Procedure Manual, Chapter 2-600, Section 7; and EEOICPA Bulletin 02-03.

Purpose: To address issues concerning NIOSH Referral Summaries sent to NIOSH.

Applicability: All staff.

### Actions:

The following issues were raised concerning NIOSH Referral Summaries. Corrective actions are discussed for each issue.

1. Transposition errors have occurred on some NIOSH Referral Summaries. It appears that some information on the Referral Summaries may have been filled in by "cutting and pasting" from another source. In the process, some information did not make it into the Referral Summary, e.g., complete addresses or case numbers. The CE should ensure that all sections of the Referral Summary are accurately completed. The signing supervisor or Senior CE should be aware of these potential problems when reviewing the Summary before it is sent to NIOSH.

2. Sometimes there are errors in the cancer reported and the proper use of ICD-9 codes. Again, the CE should ensure that the cancer(s) and the appropriate ICD-9 code(s) are accurately reported on the Referral Summary.

3. Employment information is not always complete before the Referral Summary is sent to NIOSH. The primary problem is that some employment information has not been verified before sending the Referral Summary to NIOSH. The CE should ensure that all employment dates included on the Referral Summary have been verified before sending it to NIOSH.

For multi-facility sites, the CE should report the site name, not just the contractor name, or use the contractor name followed by the appropriate sites in parentheses. Using Oak Ridge as an example, the CE should clearly state that employment was verified specifically at Y-12, X-10, and/or K-25, not just the contractor name. The CE could state the contractor name followed by all appropriate Oak Ridge sites in parentheses (Y-12, X-10, K-25). If the CE cannot verify which specific site(s) the employee worked, the CE should state this, and list the possible sites.

4. Sometimes the package sent to NIOSH does not contain all of the required information. Specifically, copies of the signed smoking history or race/ethnicity forms are not always included with the package when appropriate. The CE should ensure that all required information for a case is sent to NIOSH in one package.

If the CE receives no response to the initial questionnaire within 30 days, mail another questionnaire. The CE must inform the claimant in this letter that the case will be administratively closed if the requested information is not supplied within 30 days. In addition, this letter should note that the claimant can answer that he or she does not know the answer to the questionnaire. If another 30 days elapses (60 days total), the CE should inform the claimant by letter that the case will be administratively closed, but that the case can be re-opened if the requested information is supplied.

If the CE has information in the employee's medical record that provides information that could be used to complete the questionnaire and the claimant does not respond, the CE may complete the form using the information in the medical records, and proceed with sending the case to NIOSH. The CE should advise NIOSH in these instances that the information was obtained from medical evidence. In addition, if information in the medical record contradicts information obtained on the questionnaire the CE should pursue clarifying the discrepancy with the claimant prior to referral to NIOSH.

5. Sometimes CEs obtain additional information on a case after it has been referred to NIOSH. This additional information has been forwarded to NIOSH inconsistently. Almost 2,000 documents containing supplemental information have been received from the four District Offices. This represents a significant workload on the NIOSH staff, and thus a uniform system of referring revised information is necessary.

CEs should not make amendments to the NIOSH Referral Summary by resubmitting the entire form. Simply "cut and paste" the appropriate block from the Referral Summary (e.g., EE Covered Cancer Information or Verified Employment Period) into a Word document, fill in the correct information, and send a hard copy to NIOSH. Please title the sheet "Amended NIOSH Referral Summary Information" and include the employee's name and DOL case number (Energy Employee SSN). Please clearly mark any amendments and separate them from Referral Summaries that are submitted with the DO's weekly package to NIOSH.

If the CE needs to submit information not required in the NIOSH Referral Summary, such as additional medical information, please label this information as supplemental when it is sent to NIOSH with the weekly transmittal.

6. CEs are not always responsive to NIOSH inquiries. All calls from NIOSH are to be handled as expeditiously as possible. If a CE must do additional research to respond to a NIOSH claims specialist, the CE must advise the specialist of the status of the response and keep the specialist informed in a timely manner. Currently NIOSH needs to process the NIOSH Referral within 1.5 weeks (i.e., quality review the batch and send a request to DOE for dose data) and NIOSH would like to resolve any issues before sending the DOE request.

7. Not all DOs use the NIOSH Referral Summary format contained in the Procedure Manual. All of the DOs must use the NIOSH Referral Summary format contained in the Procedure Manual, Chapter 2-600, Exhibit 1. NIOSH personnel are familiar with the standard format, which DOL developed in association with them. This format assists them in their data entry.

8. Some duplicate Referral Summaries have been sent to NIOSH. The CE needs to ensure that the names and case numbers are accurate on the NIOSH Referral Summary so that duplicates are not sent to NIOSH.

9. DOL must begin to send NIOSH copies of the recommended and final decisions in cases where they have done a dose reconstruction. The CE is to send a copy of the recommended decision to NIOSH. The appropriate hearing representative in the FAB unit at the District Office or National Office should send a copy of the final decision to NIOSH, including those that have involved a hearing. The recommended and final decisions should be sent as part of the weekly package from the DO to NIOSH.

10. There have been a few instances when NIOSH has not been informed of changes in a case, e.g., the death of the employee. The CE should ensure that NIOSH is kept informed of any changes in cases that are at NIOSH for dose reconstruction.

11. NIOSH has recently identified that it is not necessary for the CE to list persons other than claimants and authorized representatives (lawyers or power of attorneys) on the NIOSH Referral Summary. NIOSH may identify co-workers and/or other contacts associated with the case during the dose reconstruction process. These types of other contacts will be added to the case by NIOSH at a later point.

Disposition: Retain until incorporated in the Federal (EEOICPA)  
Procedure Manual

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